



Although the Court interpreted its Order of Confirmation to establish a record date, all Direct Lenders were not made a party to this motion; according this Order does not purport to grant or deny any rights or defenses by Compass or Direct Lenders on other loans.

Entered on Docket
June 29, 2007

Hon. Linda B. Riegle
United States Bankruptcy Judge

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Counsel for Compass Financial Partners LLC

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:
USA COMMERCIAL MORTGAGE COMPANY,
Debtor.

Case No. BK-S-06-10725 LBR
Case No. BK-S-06-10726 LBR
Case No. BK-S-06-10727 LBR

In re:
USA CAPITAL REALTY ADVISORS, LLC,
Debtor.

Case No. BK-S-06-10728 LBR
Case No. BK-S-06-10729 LBR

In re:
USA CAPITAL DIVERSIFIED TRUST DEED
FUND, LLC,
Debtor.

Chapter 11
Jointly Administered Under
Case No. BK-S-06-10725 LBR

In re:
USA CAPITAL FIRST TRUST DEED FUND,
LLC,
Debtor.

In re:
USA SECURITIES, LLC,
Debtor.

ORDER GRANTING
COMPASS FINANCIAL PARTNERS'
MOTION FOR ORDER
ENFORCING CONFIRMATION ORDER
AND DETERMINING NO SURVIVING
SECTION 3 RIGHT EXISTS WITH
RESPECT TO THE FIESTA
OAK VALLEY LOAN

Date: May 11, 2007
Time: 9:30 a.m.

Affects:

- ☐ All Debtors
☒ USA Commercial Mortgage Company
☐ USA Securities, LLC
☐ USA Capital Realty Advisors, LLC
☐ USA Capital Diversified Trust Deed Fund, LLC
☐ USA First Trust Deed Fund, LLC

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1 The Court conducted a hearing on May 11, 2007 on the Motion for Order Enforcing
 2 Confirmation Order and Determining No Surviving Section 3 Right Exists With Respect to the
 3 Fiesta Oak Valley Loan (the "Motion"), which was filed by Compass Financial Partners, LLC
 4 ("Compass") on March 30, 2007. Appearances of counsel were noted on the record at the
 5 hearing.

6 Having considered the Motion, the declaration and supplemental declaration filed in
 7 support thereof, the opposition thereto and the declarations in support of the opposition, the
 8 joinder in the opposition, and the reply to the opposition, and having heard arguments of
 9 counsel, and finding that notice of the Motion was proper and appropriate under the
 10 circumstances, that good cause exists for granting the Motion,

11 IT IS HEREBY ORDERED that the Motion be, and it hereby is, GRANTED; and

12 IT IS FURTHER ORDERED that Debt Acquisition Company of America ("DACA")
 13 failed to establish that 51% of Direct Lenders¹ in the Fiesta Oak Valley Loan elected to
 14 terminate Compass as loan servicer, such that a Surviving Section 3 Right was not properly
 15 exercised; and

16 IT IS FURTHER ORDERED that in the event a Direct Lender attempts to exercise a
 17 Surviving Section 3 Right, the record date for determining whether such Surviving Section 3
 18 Right has been properly exercised shall be the thirtieth (30th) day following the date on which a
 19 Compass Motion is filed; and

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21 \\\

22 \\\

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27 _____
 28 ¹ Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Motion.

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1 IT IS FURTHER ORDERED that nothing set forth in this Order shall modify or be
2 deemed to modify the Confirmation Order, the Plan, or the Servicing Agreements, or the parties
3 rights thereunder, except to the extent expressly set forth herein.

4 Submitted by:

5 CADWALADER WICKERSHAM & TAFT

-and-

6 WEIL GOTSHAL & MANGES, LLP

-and-

7 BULLIVANT HOUSER BAILEY PC

8
9 By: Georganne W. Bradley
Georganne W. Bradley, Esq.

10 Attorneys for Compass Financial Partners

11
12 Approved/Disapproved by:

13 KIRBY & McGUINN, A P.C.

14
15 By: _____
Dean T. Kirby, Jr.

16 Attorneys for Debt Acquisition Company of America

17
18 Approved/Disapproved by:

19 JONES VARGAS

20
21 By: _____
Janet L. Chubb, Esq.

22 Attorneys for Robert J. Kehl, Ruth Ann Kehl, and Judy A. Bonnet

23
24 Approved/Disapproved by:

25 OFFICE OF THE U.S. TRUSTEE

26 By: August B. Landis
August B. Landis, Esq.

In accordance with Local Rule 9021, the undersigned certifies:

_____ The court waived the requirements of LR 9021.

_____ No parties appeared or filed written objections, and there is no trustee appointed in the case.

✓ I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and any trustee appointed in this case, and each has approved or disapproved the order, or failed to respond, as indicated below:

Dean T. Kirby, Jr. :	<u>WILL NOT SIGN-DISAPPROVED</u>
Janet L. Chubb, Esq.:	<u>NO RESPONSE</u>
Office of U.S. Trustee:	<u>APPROVED</u>

BULLIVANT HOUSER BAILEY P.C.

By: Georganne W. Bradley
Georganne W. Bradley, Esq.

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